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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,046	08/30/2007	Thomas McGee	102790-162-30108US	1146
7590 07/21/2008				
Andrew N. Parfomak Norris McLaughlin & Marcus, PA 875 Third Avenue, 18th Floor New York, NY 10022				
EXAMINER				
CERNOCH, STEVEN MICHAEL				
ART UNIT		PAPER NUMBER		
3752				
MAIL DATE		DELIVERY MODE		
07/21/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/596,046

Applicant(s)

MCGEE ET AL.

Examiner

STEVEN CERNOCH

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-10 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 26 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/ISD)
Paper No(s)/Mail Date 5/26/2006
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

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DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-9 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrase "adapted to" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claims 2-9 are rejected due to dependency.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-10 are rejected under 35 U.S.C. 102(a) as being anticipated by E.R. Ellis and Associates, Inc. (PCT WO 03/086483 A2).

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Re claim 1, Ellis shows an apparatus adapted to disseminate volatile liquid into an atmosphere (abstract, lines 1-2), the apparatus comprising a reservoir containing the liquid (lines 8-9), and a porous evaporative member that extends from the liquid into the atmosphere (line 2), the reservoir being directly open to the atmosphere only by means of a pressure equalization vent (lines 19-20), which vent is equipped with closing means that obstructs the vent to an increasing degree with increasing atmosphere temperature (lines 21-24), optionally closing it completely.

Re claim 2, Ellis shows the closing means comprises a temperature-responsive moving member, and a closure member attached thereto (abstract, lines 19-24).

Re claim 3, Ellis shows the temperature-responsive moving member comprises a member that deforms under increasing temperature, such that the closure member moves in an appropriate vent-restricting direction (abstract, lines 19-24).

Re claim 4, Ellis shows the temperature-responsive moving member is a single component that deforms with rising temperature to a degree sufficient to give the desired degree of closure (abstract, lines 14-16).

Re claim 5, Ellis shows the temperature-responsive moving member is a coil spring (abstract, lines 16-18).

Re claim 6, Ellis shows the temperature-responsive moving member is a bimetallic member (abstract, line 17).

Re claim 7, Ellis shows the bimetallic member is selected from a bimetallic strip (Fig. 1A, 3) and a bimetallic coil (abstract, line 17).

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Re claim 8, Ellis shows the closure member is a needle valve (Fig. 13B, 124) that fits in a circular vent (Fig. 13C, 125, 135).

Re claim 9, Ellis shows the closure member is a cap that closes an orifice (Fig. 13B, 122).

Re claim 10, Ellis shows a method of disseminating a volatile liquid into an atmosphere from a porous evaporative member (abstract, lines 1-2), one end of which contacts the liquid in a reservoir (lines 8-9) that is sealed from direct contact with the atmosphere other than by a pressure equalization vent (lines 19-20), and the other end of which is open to the atmosphere, such that the quantity of liquid disseminated decreases with increasing temperature of the atmosphere, the method comprising the obstructing of the vent to an increasing degree with increasing temperature (lines 21-24).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEVEN CERNOCH whose telephone number is (571)270-3540. The examiner can normally be reached on IFP.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on (571)272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. C./

Examiner, Art Unit 3752

/Len Tran/

Supervisory Patent Examiner, Art Unit 3752